IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.396 OF 1989.
WITH
FIRST APPEAL NO.1070 OF 1989.

F.A.396/89.

The State of Maharashtra through
the Special Land Acquisition
Officer, Metro Centre No.VIII,
Panvel, Dist. Raigad. ... Appellant.
Versus.
Namdeo Dharma Gaikar, through
his Power of Attorney Shri
Prakash Vasudeo Devdhar. ... Respondent.

Shri Y.M.Nakhwa, A.G.P. for the Appellant.
Shri S.M.Kamble for the Respondent.

F.A.1070/89.

Namdeo Dharma Gaikar. ... Appellant.
Versus.
Special Land Acquisition Officer,
Metro Centre No.II, Panvel. ... Respondent.

Shri S.M.Kamble with Shri Mulla for the Appellant.
Shri Y.M.Nakhawa, A.G.P. for Respondent.

FIRST APPEAL NO. 401 OF 1989
WITH
FIRST APPEAL NO. 1073 OF 1989

F.A.401/89.

The State of Manarashtra. ... Appellant.
Versus.
Shri Shankar Balya Bhagat,
through Power of Attorney Shri
Prakash Vasudeo Devdhar. ... Respondent.

Shri Y.M.Nakhawa, A.G.P. for the Appellant.
Shri S.M.Kamble with Shri Mulla for the Respondent.

F.A.1073/89.

Shankar Balya Bhagat. ... Appellant.
Versus.

Special Land Acquisition Officer,
Metro Centre No.II, Panvel. ... Respondent.

Shri S.M.Kamble with Shri Mulla for the Appellant.
Shri Y.M.Nakhawa, A.G.P. for the Respondent.

FIRST APPEAL NO. 407 OF 1989
WITH
FIRST APPEAL NO. 1060 OF 1989

F.A.407/89

The State of Maharashtra. ... Appellant.
Versus.
Smt.Thaki Hashya Bhoir
(since deceased through LRs.)
1. Smt.Manjibai Gajanan Bhagat.
2. Shri Namdeo Gajanan Bhagat.
3. Shri Balaram Gajanan Bhagat. ... Respondents

Shri Y.M.Nakhawa, A.G.P. for the Appellant.
Shri S.M.Kamble for the Respondents.

F.A.1060/89.

Smt.Thaki Hashya Bhoir
(since deceased through LRs.)
1. Smt.Manjibai Gajanan Bhagat.
2. Shri Namdeo Gajanan Bhagat.
3. Shri Balaram Gajanan Bhagat.
through Power of Attorney
holder Prakash Vasudeo Deodhar
C/o. Plot No.22, Middle Class
Cooperative Housing Society,
Panvel, Dist. Raigad. ... Appellants.
Versus.
Special Land Acquisition officer,
Metro Centre No.1, Panvel. ... Respondents.

AND

FIRST APPEAL NO. 683 OF 1989
WITH
FIRST APPEAL NO. 1086 OF 1989

F.A.683/89

The State of Maharashtra,
through the Special Land Acqhisition
Officer, Metro Centre No.8, Panvel
District Raigad. ... Appellant.

Versus.
Abdul Rahiman Ahmad Shaikh,
through power of attorney holder'
Shri Prakash V.Deodhar. ... Respondent.

Shri Y.M.Nakhawa for the Appellant.
Shri S.M.Kamble for the Respondent.

F.A.1068/89.

Abdul Rahiman Ahmad Shaikh.
through Power of Attorney Holder
Prakash Vasudeo Devdhar
R/o.Plot No.22, Middle Class
Housing Society, Panvel,
District Raigad. ... Appellant.
Versus.
The Special Land Acquisiton Officer
Metro Centre No.VIII, Panvel,
District Raigad. ... Respondent.

Shri S.M.Kamble for the Appellant.
Shri Y.M.Nakhawa, A.G.P. for the Respondent.

CORAM : ABHAY S. OKA, J.

DATED : 26th April, 2006.

ORAL JUDGMENT.

1. These Appeals can be disposed of by a common judgment. These Appeals take exception to the Judgments and Awards passed by the Civil Court in Reference Proceedings under section 18 of the Land Acquisition Act, 1894 (hereinafter referred to as "the said Act"). The acquired lands in these cases are situated in village Panvel, Taluka Panvel, District Raigad. The date of the notification under section 4 of the said Act is 3rd February 1970. The awards under section 11 of the said Act in all these cases have been made after

30th April 1982. The Reference Court has granted enhancement by fixing the market value of the acquired lands at the rate of Rs.15/- per sq.meter. The Appeals preferred by the original Claimants are for further enhancement in the market value and the Appeals by the State Government are for reduction in the market value. Shri Kamble appearing for the Claimants in all these appeals has placed reliance on the decision of the Division Bench of this Court a reference to which will be made at a later stage. He submitted that the rate of market value will be governed by the decision of the Division Bench of this Court and accordingly the Claimants will be entitled to enhancement in the market value. The learned A.G.P. submitted that the compensation awarded by the Reference Court is on the higher side and therefore, the Appeals preferred by the Claimants deserve to be dismissed and the Appeals preferred by the State Government deserve to be allowed.

2. I have considered the submissions. The lands which are the subject matter of these Appeals were notified for public purpose of development of satellite city of Navi Mumbai. Vast tracks of lands from the villages Panvel, Kalundre, Kamothe and other adjoining villages from Taluka Panvel, District Raigad were notified for acquisition on the same date. The learned

Advocate for the Claimants has placed reliance on the decision of the Division Bench of this Court in the case of Nama Padu Hudar and others v/s. State of Maharashtra (First Appeal No.754 of 1986) and other connected Appeals. The Division Bench in the said decision dealt with Appeals arising out of the Reference Proceedings under section 18 of the said Act in respect of lands from villages Panvel and Kamothe of Taluka Panvel, District Raigad. The Division Bench considered the locations of the said villages and divided the acquired lands into five categories depending upon the distance of the lands from the Bombay-Pune National Highway and from Zilla Parishad Road. The Division Bench fixed the market value of the lands falling in these five categories. The decision of the Division Bench has attained finality. In a recent decision dated 6th March 2006 in the case of Shantadevi Ruparel v/s. Special Land Acquisition Officer, the Apex Court has upheld the aforesaid decision of the Division in the case of Nama Padu Hudar v/s. State of Maharashtra. The Apex Court has approved the method adopted by the Division Bench of dividing the lands into five categories for the purposes of fixing market value. In fact in case of the lands which are subject matter of Appeal before the Apex Court, a direction was given to grant compensation in terms of the decision of the Division Bench in the case

of Nama Padu Hudar (supra). The Apex Court noted that neither the acquiring body nor the State of Maharashtra has challenged the decision of the Division Bench in the case of Nama Padu Hudar (supra).

3. In my view as the lands subject matter of these appeals are located at Panvel, District Raigad, the decision of the Division Bench of this Court will squarely apply to these Appeals. Therefore, each individual case in this group will have to be decided depending upon the distance between the acquired land and the Highway or the Zilla Parishad Road for determining the category in which the land will fall in terms of the decision of the Division Bench.

4. First Appeal Nos.1070 of 1989 and 396 of 1989 arise out of the Land Acquisition Reference No.80 of 1987. The claimant has examined an expert valuer one Shri J.N.Kulkarni in support of his case. The expert valuer had prepared a report as regards the valuation of the land. The said expert has been examined as a witness and the valuation report prepared by him is admitted in evidence and marked as Exh.32. The said report discloses that the acquired land is situated at a distance of 880 meters from the Bombay-Pune Highway. Thus the land falls under category IVA fixed by the

Division Bench and the market value will be Rs.20/- per sq.meter.

5. The First Appeal Nos.401 of 1989 and 1072 of 1989 arise out of Land Acquisition Reference No.85 of 1987. The cross-examination of the expert valuer the said Shri Kulkarni discloses that the acquired lands are located between 40 meters and 1200 meters from the Bombay-Pune Highway and therefore, this land will also fall under the category IVA and the market value will be Rs.20/- per sq.meter.

6. First Appeal Nos.407 of 1989 and 1060 of 1989 arise out of Land Acquisition Reference No.73 of 1983. In this case also the report of the expert valuer discloses that the land falls under category IVA and the market value will have to be fixed at Rs.20/- pr sq.meter.

7. First Appeal Nos.683 of 1989 and 1086 of 1989 arise out of the Land Acquisition Reference No.221 of 1987. The report of the expert valuer Shri Kulkarni has been exhibited on record at Exh.40 and the said report has been duly proved by examining the said expert. The report discloses that the acquired land falls within 800 meters of the Highway and therefore the said land fall

within category II and the market value of Rs.23/- per sq.meter will have to be awarded.

8. Hence the Awards made by the Reference Court will have to be modified. Accordingly the following order is passed:

F.A.No.1070/89

i) The Appeal is partly allowed. The Judgment and Award of the Reference Court is modified as under:

. "(a) The Claimant will be entitled to the market value of Rs.20/- per sq.meter together with all statutory benefits under sections 23(1-A), 23(2) and 28 of the Land Acquisition Act, 1894.

. (b) The Claimant will be entitled to proportionate costs of the reference proceedings."

ii) The Reference Court will calculate the compensation payable to the Claimant within a period of four months from the

date of receipt of writ of this order.

iii) The Claimant will be entitled to the proportionate costs of this Appeal from the Respondent-State Government.

F.A.NO.396/89.

i) The Appeal is dismissed.

ii) The Appellant to pay costs of this Appeal to the Respondent.

F.A.No.401/89.

i) The Appeal is partly allowed. The Judgment and Award of the Reference Court is modified as under:

. "(a) The Claimant will be entitled to the market value of Rs.20/- per sq.meter together with all statutory benefits under sections 23(1-A), 23(2) and 28 of the Land Acquisition Act, 1894.

. (b) The Claimant will be entitled to proportionate costs of the reference proceedings."

ii) The Reference Court will calculate the compensation payable to the Claimant within a period of four months from the date of receipt of writ of this order.

iii) The Claimant will be entitled to the proportionate costs of this Appeal from the Respondent-State Government.

F.A.1073/89.

i) The Appeal is dismissed.

ii) The Appellant to pay costs of this Appeal to the Respondent.

F.A.No.1060/89

i) The Appeal is partly allowed. The

Judgment and Award of the Reference Court is modified as under:

. "(a) The Claimants will be entitled to the market value of Rs.20/- per sq.meter together with all statutory benefits under sections 23(1-A), 23(2) and 28 of the Land Acquisition Act, 1894.

. (b) The Claimants will be entitled to proportionate costs of the reference proceedings."

ii) The Reference Court will calculate the compensation payable to the Claimants within a period of four months from the date of receipt of writ of this order.

iii) The Claimants will be entitled to the proportionate costs of this Appeal from the Respondent-State Government.

F.A.No.407/89

i) The Appeal is dismissed.

ii) The Appellant to pay costs of this Appeal to the Respondent.

F.A.1086/89.

i) The Appeal is partly allowed. The Judgment and Award of the Reference Court is modified as under:

. "(a) The original Claimant will be entitled to the market value of Rs.23/- per sq.meter together with all statutory benefits under sections 23(1-A), 23(2) and 28 of the Land Acquisition Act, 1894.

. (b) The Claimant will be entitled to proportionate costs of the reference proceedings."

ii) The Reference Court will calculate the compensation payable to the Claimant within a period of four months from the date of receipt of writ of this order.

iii) The Claimant will be entitled to the proportionate costs of this Appeal from the Respondent-State Government.

F.A.No.683/89.

i) The Appeal is dismissed.

ii) The Appellant to pay costs of this Appeal to the Respondent.

Judge.